DAS # *afw*

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Pratyush Moghe  
Serial No. 10/780,252  
Filing Date: February 17, 2004 (pending)  
Title: A METHOD AND APPARATUS TO DETECT  
UNAUTHORIZED INFORMATION DISCLOSURE  
VIA CONTENT ANOMALY DETECTION

Mail Stop Petitions  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**PETITION UNDER 37 C.F.R. 1.53(e) TO ACCORD ORIGINAL FILING DATE**

This Petition is filed pursuant to 37 C.F.R. §1.53(e) and seeks relief from the initial determination that, because the subject application was filed with embedded drawings, it is not entitled to its actual filing date of February 17, 2004.

A Notice of Incomplete Nonprovisional Application was mailed August 10, 2004. Applicant has filed a full and timely response to that Notice, a copy of which is attached to this Petition.

For the following reasons, the undersigned petitions the Commissioner to accord the application its original filing date of February 17, 2004, and to refund the petition fee of \$130.00 that is being filed with this Petition.

The application was filed initially by the inventor, who is not a patent lawyer or agent. The inventor was unfamiliar with the filing requirements of the Office and, in particular, the

requirement that drawings cannot be filed as embedded objects in a specification.<sup>1</sup> Nevertheless, drawings were not necessary for the understanding of the subject matter sought to be patented.

In particular, as filed, the original application contained one or more method claims and, therefore, the subject application is an application for which drawings are not necessary under 35 U.S.C. § 113. Claims 1-40 are directed to a method. Pursuant to M.P.E.P. § 601.01(f), it is the practice of the Office to treat all such applications as not requiring a drawing to understand the invention under 35 U.S.C. § 113. The presence of method claims 1-40 alone entitles the application to its original filing date under the accepted practice of the Office, as more particularly described in the above-cited M.P.E.P. section. This is a corollary to the principle that original claims form part of the original disclosure and provide their own written description. See, M.P.E.P. § 601.01(d). Moreover, the application should be fully examined if any claim originally presented does not require a drawing under 35 U.S.C. § 113, which is the case here.

The application also includes a set of “apparatus” claims, numbered 41-48. M.P.E.P. § 601.01(f) recognizes that there are other situations in which drawings are “usually not considered necessary for an understanding of the invention” including claims directed to an apparatus where “the sole distinguishing feature is presence of a particular material.” Here, claim 41, in effect, describes such a particular material, namely, a computer program that performs the programmed functions “to capture packets, filter data content, decode packets based on protocol and application, derive content signatures, generate historical trends, detect anomalies, and provide real-time access control.” Because claims 41-48 claim an apparatus distinguishable by programmed functions and a method that are fully described, the inclusion of these claims should not foreclose the Applicant from being afforded his original filing date.

In conclusion, the application was filed with claims to a method, as well as a software-enabled apparatus, where the software implements a method that has been fully described. The Office generally recognizes such subject matter as not requiring drawings under 35 U.S.C. § 113. Therefore, the application should be granted its original filing date and all claims of the application should receive full examination.

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<sup>1</sup> As noted above, a Substitute Specification has been submitted to remove the embedded drawings.

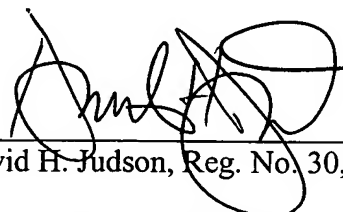
Alternatively, Applicant will cancel claims 41-48 without prejudice or disclaimer if necessary to obtain grant of this Petition.

In summary, because the application includes at least one method claim and because the claimed method is disclosed in significant detail (without the embedded drawings), the application should be afforded its original filing date. Denial of this Petition will have the effect of penalizing (by the loss of the original filing date) an independent inventor who was not cognizant of the specialized Rules governing patent application filings.

A check in the amount of \$130.00 for payment of the Petition fee is included.

Respectfully submitted,

By:

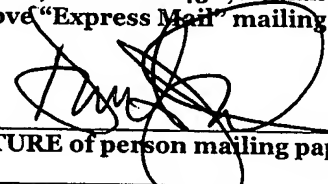
  
\_\_\_\_\_  
David H. Judson, Reg. No. 30,467

ATTORNEY FOR APPLICANT

David H. Judson  
15455 N. Dallas Parkway  
Suite 600  
Addison, Texas 75001  
972-764-5221  
253-369-3141 (fax)

**RESPONSE TO NOTICE OF INCOMPLETE NONPROVISIONAL**  
**APPLICATION**

COPY

<b>CERTIFICATE OF MAILING BY "EXPRESS MAIL" UNDER 37 CFR § 1.10</b> <b>"EXPRESS MAIL" mailing label number:</b>	
<b>Date of Mailing: October 12, 2004</b>	
I hereby certify that I have caused the documents indicated below to be deposited with the United States Postal Service "Express Mail Post Office to Addressee" under 37 CFR § 1.10 on the date indicated above and are addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA. 22313-1450 and mailed on the above Date of Mailing with the above "Express Mail" mailing label number	
<b>David H. Judson</b>	
<b>Typed or printed name of person mailing paper or fee</b>	<b>SIGNATURE of person mailing paper or fee</b>

Date: October 12, 2004

Phone: 972-764-5221

Internet Address  
mail@davidjudson.com

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P.O. Box 1450  
Alexandria, VA 22313-1450

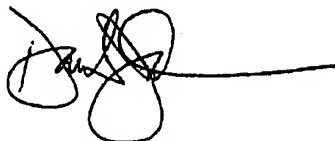
Re: Serial No. 10/780,252  
**A Method and Apparatus to Detect Unauthorized Information Disclosure  
via Content Anomaly Dection**  
Applicants: Pratyush Moghe  
Attorney No: Tizer 001

Dear Sir:

This submission responds to the Notice of Incomplete Nonprovisional Application that was mailed August 10, 2004. A timely response to the Notice is made today, as the period for response has been extended through October 12, 2004, pursuant to 37 C.F.R. § 1.7(b).

A Power of Attorney has been included to appoint the undersigned as attorney of record.

Respectfully submitted,

A handwritten signature in black ink, consisting of a stylized 'D' and 'J' followed by a horizontal line.

By:

\_\_\_\_\_  
David H. Judson, Reg. No. 30,467

David H. Judson  
15455 N. Dallas Parkway  
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972-764-5221  
253-369-3141 (fax)

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**TRANSMITTAL  
FORM**

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

Application Number 10/780,252

Filing Date February 17, 2004

First Named Inventor Moghe

Art Unit

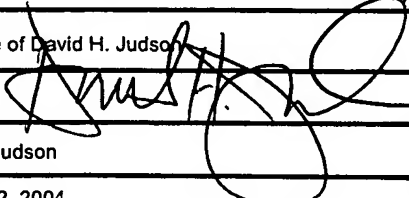
Examiner Name

Attorney Docket Number Tizor - 001

**ENCLOSURES (Check all that apply)**

<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance Communication to TC
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment/Reply	<input type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input checked="" type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Terminal Disclaimer	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): <i>Preliminary Amendment</i>
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Request for Refund	Substitute Specification
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> CD, Number of CD(s) _____	Supplemental Declaration
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> Landscape Table on CD	Copy of Formalities Letter
<input checked="" type="checkbox"/> Reply to Missing Parts/Incomplete Application	<input type="checkbox"/> Remarks	<i>Substitute Drawings</i>
<input checked="" type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53		

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm Name	Law Office of David H. Judson		
Signature			
Printed name	David H. Judson		
Date	October 12, 2004	Reg. No.	30,467

**CERTIFICATE OF TRANSMISSION/MAILING**

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature	SEE ATTACHED EXPRESS MAIL CERTIFICATE		
Typed or printed name		Date	

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PTO/SB/81 (09-04)

Approved for use through 11/30/2005. OMB 0651-0036  
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

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**POWER OF ATTORNEY  
and  
CORRESPONDENCE ADDRESS  
INDICATION FORM**

Application Number	10/780,252
Filing Date	February 17, 2004
First Named Inventor	Moghe
Title	A Method and Apparatus to *
Art Unit	
Examiner Name	
Attorney Docket Number	TIZOR 001

I hereby appoint:

☐ Practitioners associated with the Customer Number:

OR

☒ Practitioner(s) named below:

Name	Registration Number
David H. Juelson	30,467

as my/our attorney(s) or agent(s) to prosecute the application identified above, and to transact all business in the United States Patent and Trademark Office connected therewith.

Please recognize or change the correspondence address for the above-identified application to:

☐ The address associated with the above-mentioned Customer Number:

OR

☐ The address associated with Customer Number:

<input checked="" type="checkbox"/> Firm or Individual Name	David H. Juelson				
Address	15455 Dallas Parkway, Suite 600				
City	Addison	State	TX	Zip	75001
Country	USA				
Telephone	972-764-5221	Fax	253-369-3141		

I am the:

☒ Applicant/Inventor.

☐ Assignee of record of the entire interest. See 37 CFR 3.71.  
Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/86)

SIGNATURE of Applicant or Assignee of Record

Signature	<i>David H. Juelson</i>		Date	10/11/2004
Name	PRATYUSH MOGHTE		Telephone	503-397-1694
Title and Company	CEO, TIZOR SYSTEMS			

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

☒ Total of 1 forms are submitted.

This collection of information is required by 37 CFR 1.31 and 1.33. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 3 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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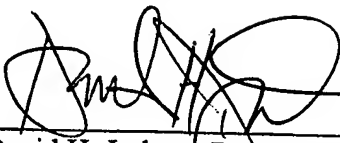
**RESPONSE TO NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION**

In response to the Notice mailed August 10, 2004, Applicant hereby submits (a) a Preliminary Amendment that includes a substitute specification in compliance with 37 C.F.R. 1.52, 1.121(b)(3) and 1.125, (b) a Supplemental Declaration and Power of Attorney executed by the named inventor, and (c) a copy of the Formalities Letter. The Formalities Letter did not identify any requirement for payment of a fee in connection with this particular response.

The Notice made reference to the potential filing of a Petition to afford the application the original filing date. Such a Petition is being prepared and will be filed under separate cover following the submission of this Response.

A two (2) month response deadline was provided in this Notice. Under 37 CFR 1.7(b), the date for response was October 10, 2004, and that date has been extended up to and including October 12, 2004 as a result of the intervening weekend and Columbus Day federal holiday.

Respectfully submitted,

By:   
David H. Judson, Reg. No. 30,467

ATTORNEY FOR APPLICANT

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Addison, Texas 75001  
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